

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Simon Wang	Team: Squad #7	CCRB Case #: 201903728	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/24/2019 10:16 PM	Location of Incident: 40th Precinct Stationhouse [2nd Floor Detective Area]	Precinct: 40	18 Mo. SOL 10/24/2020	EO SOL 6/10/2021	
Date/Time CV Reported Wed, 05/01/2019 11:42 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 05/01/2019 11:42 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Eduard Lucero	12992	960838	040 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kelvin Garcia	02599	936650	040 DET
2. DT3 Rosalind Jaime	4440	944089	GVSD Z2

Officer(s)	Allegation	Investigator Recommendation
A.POM Eduard Lucero	Force: Police Officer Eduard Lucero pushed § 87(2)(b) against holding cell wall.	

Case Summary

On April 24, 2019, LT Darrien King of the 40th Precinct reported this incident to IAB. On May 1, 2019, § 87(2)(b)'s criminal defense attorney Michael Raskin reported this complaint to the CCRB via its website.

On April 24, 2019, at 6:18 p.m., § 87(2)(b) was arrested by PO Eduard Lucero of the 40th Precinct for § 87(2)(b) (BR 1). At approximately 10:16 p.m., § 87(2)(b) was being held in the 40th Precinct stationhouse holding cell when PO Lucero escorted him from the first floor holding cell to the 40th Precinct Detective Squad holding cell on the second floor. As they approached the holding cell on the second floor, § 87(2)(b) refused to enter the cell. PO Lucero pushed § 87(2)(b) into the cell. PO Lucero allegedly threw § 87(2)(b) against the walls of the cell (**Allegation A: Force** - § 87(2)(g)). § 87(2)(b) sustained a laceration to the right side of his head, bleeding lips, and pain in his right shoulder and right knee. § 87(2)(b) was treated at § 87(2)(b).

The investigation obtained video footage from cameras at the 40th Precinct stationhouse.

Findings and Recommendations

Allegation (A) Force: Police Officer Eduard Lucero pushed § 87(2)(b) against holding cell wall.

After § 87(2)(b) was arrested by PO Lucero, he was transported to the 40th Precinct stationhouse and lodged in the holding cell on the first floor of the stationhouse. § 87(2)(b) believed he had been arrested for recklessly driving an electric scooter. At 10:14 p.m. PO Lucero opened the holding cell and placed § 87(2)(b) in handcuffs. PO Lucero informed § 87(2)(b) that he was being charged with possession of a loaded firearm which was found in the scooter. This interaction was recorded on video with no audio recording from cameras in the first floor holding cell at the 40th Precinct stationhouse (**BR 2**). PO Lucero told § 87(2)(b) he was being brought to the second floor to speak to detectives. Det. Rosalind Jaime of the Gun Suppression Unit stated that she was notified of § 87(2)(b)'s gun arrest and that she responded to the 40th Precinct Detective Squad to supplement the investigation. Det. Jaime stated that her job was to assist the Detective Squad in conducting a voluntary interview of § 87(2)(b). The interview was to be voluntary and § 87(2)(b) would be mirandized prior to any interview.

The holding cell on the second floor of the 40th Precinct stationhouse is located inside its own room, with a door to the room in addition to a cell door inside the room. PO Lucero and § 87(2)(b) walked to the second floor via the staircase. As they approached the door to the holding cell room, § 87(2)(b) stated, "I'm not talking to nobody. You bringing me here for no reason." PO Lucero stated in his CCRB interview that § 87(2)(b) told him, "You're going to have to force me." Det. Jaime stated that she was on the second floor preparing for the interview, when PO Lucero and § 87(2)(b) entered the second floor. § 87(2)(b) was yelling that he did not want to go into the holding cell. Sgt. Kelvin Garcia of the 40th Precinct Detective Squad stated he was also on the second floor and heard yelling, but could not tell who was yelling or what they were yelling.

§ 87(2)(b) admitted that he resisted walking into the cell and stated that PO Lucero pushed him in the back towards the cell. PO Lucero stated that as they approached the door to the cell, he was holding § 87(2)(b) by the handcuffs. He felt § 87(2)(b) pulling away from him and shifting his body weight away. PO Lucero grabbed § 87(2)(b) by the arms and pushed him towards the cell. § 87(2)(b)'s arms felt tense as he pushed him.

§ 87(2)(b) alleged that after he was pushed into the cell, PO Lucero swung him around the inside of the cell, causing his head to strike the cell walls repeatedly. § 87(2)(b) then fell face-down onto the ground, simultaneously striking the cell bars as he fell. § 87(2)(b)'s mouth struck the ground, causing a split lip. § 87(2)(b) felt he “blanked out” when he fell and did not recall what happened once he was on the ground.

PO Lucero stated that when he pushed § 87(2)(b) into the cell, § 87(2)(b) jumped on top of the bench inside the cell. § 87(2)(b) was standing on top of the bench facing the wall. PO Lucero pulled § 87(2)(b) by the arms from the bench and § 87(2)(b) stumbled and hit his head against the cell door. § 87(2)(b) then fell face-down onto the ground. When § 87(2)(b) fell, other officers entered the room and “pulled away” PO Lucero. They told PO Lucero that the “got it.” § 87(2)(b) Lucero exited the cell at that point and had no further interaction with § 87(2)(b).

The video footage from the second floor holding cell (**BR 3**) shows that § 87(2)(b) was leaning backwards as PO Lucero pushed § 87(2)(b) from behind into the room, and then into the open cell. The inside of the cell was not visible to the camera due to the cell walls. PO Lucero pushed § 87(2)(b) into the cell at 10:16:54 p.m. after which § 87(2)(b) and PO Lucero both were blocked from the view of the camera by the cell walls. Det. Jaime entered the cell room shortly behind PO Lucero and Det. Jaime entered the cell as well. Her actions inside the cell could not be seen on camera. Sgt. Garcia and two other officers followed Det. Jaime into the room and stood at the entrance to the cell. At 10:17:04 p.m., PO Lucero could be seen standing at the door to the cell looking inside. He then exited the room to the cell without any further interaction with § 87(2)(b). The remaining officers appeared to speak to § 87(2)(b) inside the cell. § 87(2)(b) came to the open cell door briefly and was visible to the camera for the first time since being pushed into the cell. Only the left side of his face was visible and it could not be discerned whether he was injured. The cell door was then closed and § 87(2)(b) could no longer be seen. All the officers then left the room.

Det. Jaime stated that when she entered the cell she saw § 87(2)(b) on the ground with PO Lucero positioned on top of him. She did not know how § 87(2)(b) and PO Lucero came to be on the ground. Det. Jaime stated she told them both, “Get up. Get up” and pulled them both from the floor. Det. Jaime saw a “red mark” on § 87(2)(b)'s face. Sgt. Garcia entered the cell after Det. Jaime. He stated that he saw § 87(2)(b) sitting down when he entered the cell and § 87(2)(b) had a bruise on his right cheek.

§ 87(2)(b) stated that when other officers entered the cell, they were telling PO Lucero that he was “acting crazy” Det. Jaime denied this assertion and stated she did not recall any officer saying anything critical of PO Lucero's actions. Sgt. Garcia did not recall anything that was said by anyone inside the cell. Det. Jaime stated that she decided not to attempt to interview § 87(2)(b) since he was obviously upset and unlikely to agree to be interviewed.

The video from the second-floor camera showed that at 10:28 p.m., the cell door was opened again and § 87(2)(b) exited the cell (**BR 4**). There was a red mark visible on his right cheek and § 87(2)(b) appeared to be grimacing. § 87(2)(b) was escorted out of the cell and back to the first floor holding cell by an unidentified uniformed officer who was not PO Lucero (**BR 5**).

At 10:36 p.m. the cameras on the first floor holding cell recorded § 87(2)(b) apparently engaged in conversation with another prisoner in the first floor holding cell (**BR 6**). There was no audio recorded. § 87(2)(b) stepped onto the bench in the cell and stood facing the wall. § 87(2)(b) then stepped off the bench and made a throwing motion with both his arms. PO Lucero was presented with this video of § 87(2)(b) during his CCRB interview. PO Lucero stated that the throwing motion demonstrated by § 87(2)(b) in the video was an exaggeration of how he pulled § 87(2)(b) off the bench. He stated that his pulling was more of a “guiding” motion and that § 87(2)(b) stumbled and fell. PO Lucero stated that the way § 87(2)(b) stood on top of the bench in the video was an accurate recreation of how he stood on top of the bench while on the second floor. PO Lucero stated he was not present when the video was recorded and has never seen the video before.

The medical records from § 87(2)(b) (see privileged documents) indicate that § 87(2)(b) was brought to the hospital was a laceration to the right parietal area of the head and “questionable” loss of consciousness. § 87(2)(b) also complained of pain in the right arm and shoulder. After an examination, a 0.5 mm laceration was found on his right scalp. An X-ray of his shoulder showed no dislocation, or swelling. § 87(2)(b) was given acetaminophen and ibuprofen.

Based on the video evidence, the investigation credits PO Lucero’s statement that § 87(2)(b) jumped onto the bench inside the second floor holding cell and that PO Lucero pulled § 87(2)(b) off the bench. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (**BR 7**).
- PO Eduard Lucero has been a member-of-service for three years and has been a subject in five other CCRB complaints and eight allegations, none of which were substantiated.

██████████

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED]

Squad No.: 7

Investigator: _____ SI Simon Wang _____
Signature Print Title & Name Date

Squad Leader: _____

Signature	Print Title & Name	Date
-----------	--------------------	------

Reviewer: _____

Signature	Print Title & Name	Date
-----------	--------------------	------